



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE NM 87109-3435

January 15, 2008

Operations Division
Regulatory Branch

Mr. Gabriel B. Cosyleon
Natural Resources Program
Santo Domingo Tribe
P.O. Box 70
Santo Domingo Pueblo, New Mexico 87052-0070

Dear Mr. Cosyleon:

This replies to your e-mail correspondence regarding the Santo Domingo Pueblo's proposed habitat improvement work at three sites located within sandbars on the Rio Grande at the Santo Domingo Pueblo, Sandoval County, New Mexico. The Albuquerque District, U.S. Army Corps of Engineers (Corps), has assigned Action No. SPA-2008-00028-ABQ to this activity.

The Corps has evaluated the information you provided and studied the project description and the other records and documents available to us. The proposed work will occur on sandbars at three sites (Sites 6, 7, and 8) located within the Rio Grande. At these sites, sediments will be excavated to open up side channels for the benefit of the Rio Grande silvery minnows and other fish species. At all of the sites, excavated material will be transported from the project area or placed immediately outside of the project area above the ordinary high water mark (OHWM).

The Rio Grande within the Santo Domingo Pueblo is a water of the United States and the placement of dredged or fill material below the OHWM of the Rio Grande requires authorization under Section 404 of the Clean Water Act. However, based on an evaluation of the project, the Corps has determined that the project will not involve the placement of any dredged or fill material below the OHWM of the Rio Grande. The proposed project is not regulated under the provisions of Section 404 of the Clean Water Act and a Department of the Army permit will not be required.

Our disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, state and local laws may

apply to the proposed work. Therefore, you may want to also contact other Federal, state and local regulatory authorities to determine whether the proposed work may require other authorizations or permits.

This letter contains an approved jurisdictional determination for your proposed project. If you object to this determination, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the South Pacific Division Office at the following address:

Administrative Appeal Officer
Division Review Office (ph (415) 503-6574, fax (415) 503-6646)
South Pacific Division, CESPDPDS-O
1455 Market Street, Room 1760
San Francisco, CA 94103-1399

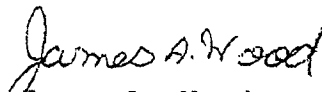
In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by March 15, 2008.

It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This jurisdictional determination will be valid for 5 years from the date of this letter unless new information warrants revision of the determination within that time.

If you have any questions regarding this determination, please feel free to contact me at (505) 342-3280 or e-mail me at james.a.wood@usace.army.mil. For more information about the regulatory program, please see our web site at www.spa.usace.army.mil/reg.

Sincerely,



James A. Wood
Regulatory Project Manager

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Santo Domingo Pueblo

File Number: SPA-2008-
00028-ABQ

Date: 1/15/08

Attached is:

See Section below

INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)

A

PROFFERED PERMIT (Standard Permit or Letter of permission)

B

PERMIT DENIAL

C

X APPROVED JURISDICTIONAL DETERMINATION

D

PRELIMINARY JURISDICTIONAL DETERMINATION

E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT ENGINEER for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the DISTRICT ENGINEER within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the DISTRICT ENGINEER will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the DISTRICT ENGINEER will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT ENGINEER for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER (address on reverse). This form must be received by the DIVISION ENGINEER within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER. This form must be received by the DIVISION (not district) ENGINEER within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER (address on reverse). This form must be received by the DIVISION ENGINEER within 60 days of the date of this notice. Exception: JD appeals based on new information must be submitted to the DISTRICT ENGINEER within 60 days of the date of this notice.

EXCEPTION: Appeals of Approved Jurisdictional Determinations based on new information must be submitted to the District engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER

Albuquerque District, Corps of Engineers

Attn: CESPA-OD-R, Regulatory Branch

1101 Jefferson Plaza NE

Albuquerque, New Mexico 87109-3435

(505) 342-3283

If you only have questions regarding the appeal process you may also contact:

DIVISION ENGINEER

Army Engineer Division, South Pacific, CESPD-CM-O

Attn: Administrative Appeal Review Officer

1445 Market Street, San Francisco, CA 94103 (415-503-6574)

(Use this address for submittals to the DIVISION ENGINEER)

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: